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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Easton, California)

DOCKET FILE COPY ORIGINAL

MM Docket No. 99-181
RM-9584

To: Chief, Allocations Branch

COMMENTS AND COUNTERPROPOSAL
OF SAN JOAQUIN RADIO COMPANY, LLC.

San Joaquin Radio Company, LLC ("San Joaquin"), by its attorney, hereby files its Comments and Counterproposal in the above-referenced rulemaking proceeding in which the Commission has proposed allotting FM Channel 300A to Easton, California, as that locality's first local aural transmission service. The proposed allotment at Easton is mutually exclusive with a proposal to allot Channel 300B1 to North Fork, California, and to modify the license of Station KAJZ, Merced, California, which currently operates on Channel 299A at Merced, California, to specify operation on Channel 300B1 at North Fork that San Joaquin filed on February 23, 1999. For the reasons set forth below, San Joaquin submits that its counterproposal to allot Channel 300B1 to North Fork will better serve the public interest than would the proposed allotment of Channel 300A to Easton.

- I. The Proposed Allotment of Channel 300B1 to North Fork Is Entitled to a "First Local Service Preference" Whereas the Proposed Allotment of Channel 300A to Easton Is Not

(a) North Fork

North Fork is an unincorporated community with a population (1990 Census) of 2,541.

The current population of North Fork is estimated by the Madera County Development

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Committee to be 2,728. Although North Fork is unincorporated, it has an elected local government, the North Fork Community Development Council, Inc., which provides such services as water and sewer, land use regulation and planning and community beautification. The North Fork Mono Rancheria Council which is elected by members of the Mono Indian tribe administers Federal programs for tribe whose members comprise approximately 11% of the population of North Fork. Fire protection is provided by the North Fork Fire Department. North Fork also has a local post office, its own zip code, and a public library. Community organizations in North Fork include the North Fork Chamber of Commerce, the North Fork Boosters and the Sierra Tribal Consortium. Health care services in North Fork are provided by the Central Valley Indian Health Clinic and the North Fork Nutrition Program. North Fork has a local elementary school, local high school and churches representing nine different denominations. Local media services in North Fork consist of a local weekly newspaper, the *North Fork Journal*, and a local cable system, Ponderosa Cablevision. The largest employers in North Fork are PG & E and Ponderosa Telephone and a majority of the residents of North Fork also work in North Fork. Finally, as a Class B1 station operating from the reference point for the North Fork allotment would provide principal city coverage to only 10% of the Fresno Urbanized Area (See Engineering Statement of Benjamin Dawson), there is no need to undertake a "Tuck analysis," *Faye and Richard Tuck, Inc.*, 3 FCC Rcd 5374 (1988), to determine whether the proposed North Fork allotment is entitled to a first local transmission service preference.

(b) Easton

As shown in the attached Engineering Statement, the principal community contour of a Class A station operating from the reference point for the proposed Easton allotment would encompass 82% of the Fresno Urbanized Area. As Easton is a small unincorporated suburb of

Fresno¹, situated only 2.1 miles south of the Fresno city limits, absent a “Tuck analysis” establishing that Easton is an independent community, and is not interdependent with the central city of Fresno, the Easton proposal is not entitled to a first local transmission service preference. *See Huntington Broadcasting v. FCC*, 192 F.2d 33 (D.C. Cir. 1951), *Faye and Richard Tuck, Inc.*, *supra*.

The Commission has listed eight factors to be considered in determining whether a suburban community is independent of or interdependent with a central city. *See, Elizabeth City, North Carolina, and Chesapeake, Virginia, DA 94-808* (Chief Allocations Branch, 1994). Analyzing Easton and its relationship to Fresno under these eight factors clearly establishes that Easton, is not an independent community with its own identity, but rather is a mere appendage of Fresno which relies upon the core city of Fresno for its economic existence and upon Fresno County Government or the City of Fresno for all basis governmental services.

1. There are few businesses of any sort in Easton, and a majority of the residents of Easton are employed by businesses in Fresno.
2. There is no local daily, weekly, or bi-weekly newspaper published in Easton. Forty-seven percent of the households in the Easton area subscribe to the *Fresno Bee* daily newspaper. A weekly newspaper, the *Twin City Times* serves the communities of Caruthers, Riverdale and Easton; however, fewer than 10% of the households in Easton subscribe to this paper.
3. A recent survey of the residents of Easton established that the reason that most residents

¹Although the 1990 Census placed the population of Easton, a census designated place, at 1,877, this population figure includes many people who live on family farms in the vicinity of the urbanized community of Easton. Fewer than 1,000 people reside within the Easton community boundaries as defined by the Fresno County Office of Public Works & Development.

of Easton have chosen to live in the community is to enjoy a more rural life style while at the same time remaining in close proximity to jobs, shopping and schools in Fresno.

4. Easton has no local government and no elected officials.

5. Easton does not have its own telephone book, nor is there a separate section of the local telephone directory containing Easton listings. Rather, Easton telephone numbers are included among telephone numbers for Fresno. Easton does not have a U.S. Post Office. Postal services such as mail boxes are provided by the Fresno Main Post Office. The Fresno Main Post Office Zip Code - 93706 includes Easton which does not have its own zip code.

6. Commercial establishments in Easton consist of a few minimarts, a drug store and a bar. There are no banks in Easton. Health facilities in Easton are provided only by The Easton Health Center, a center that provides minimal health care services to low income women and children. A doctor visits this facility once per week, and a nurse/practitioner is on duty four days per week. The only public transportation serving Easton is provided by the Fresno City Bus Service.

7. Easton does not have any local advertising media and is part of the Fresno advertising market.

8. Easton provides none of its own municipal services. Easton receives fire protection services from the Fresno Fire Protection District and police services from the Fresno County Sheriff's Department. A private water company provides water service to a small residential development within Easton; however, most Easton households rely on well water and septic tanks. The Washington Union School District, a part of the Fresno County Education Department,

provides public education in for residents of Easton and the Fresno County Library operates a satellite branch in Easton which is opened 14 hours per week.

II. The Proposed North Fork Allotment Will Provide Primary Service to a Larger Area and Population that Would the Proposed Easton Allotment.

As shown in the attached Engineering Statement the 60 dBu contour of a Class B1 station operating at the proposed North Fork allotment coordinates would encompass an area 215% greater in size and with 13% more residents than the area that would be encompassed by the 60 dBu contour of a Class A station operating at the proposed Easton allotment coordinates.

III. Conclusion

The counterproposal set forth herein to allot Channel 300B1 to North Fork, California, is to be preferred over the proposal set out in the Notice to allot Channel 300A to Easton, California, based on the fact that the North Fork allotment would provide a first local transmission service whereas the Easton proposal would not and the further fact that the North Fork proposal would provide service to a larger area and population that would be served by the Easton proposal.

RESPECTFULLY SUBMITTED,

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Dated: June 29, 1999

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ENGINEERING STATEMENT

IN SUPPORT OF COMMENTS IN MM DOCKET NO. 99-181

PREPARED FOR
SAN JOAQUIN RADIO COMPANY, LLC

6/99

Engineering Statement

This Engineering Statement has been prepared on behalf of San Joaquin Radio Company, LLC ("San Joaquin") in support of comments filed in MM Docket No. 99-181. San Joaquin is the licensee of station KAJZ(FM) Channel 299A at Merced, California.

In MM Docket No. 99-181, Mountain West Broadcasting ("Mountain West") proposes the allotment of Channel 300A at Easton, California, as that community's first local service. The Mountain West proposal was filed on March 3, 1999. On February 23, 1999, San Joaquin filed a Petition for Rulemaking to reallocate Channel 299A at Merced to Channel 300B1 at North Fork, California. The Mountain West and San Joaquin proposals are mutually exclusive. This engineering statement will demonstrate that the San Joaquin proposal is superior to the Mountain West proposal.

First Local Service

Mountain West claims that its proposal will provide a first local service to Easton. However, the attached map exhibit demonstrates that the 70 dBu contour from a hypothetical Class A operation (6 kW ERP at 100 meters HAAT) at the proposed Easton allotment coordinates (NL 36° 45' 28" x WL 119° 51' 55") would encompass 82% of the Fresno Urbanized Area. Therefore, absent a compelling "Tuck" analysis, demonstrating Easton's independence from Fresno, Mountain West cannot claim that its proposal will provide first local service to Easton.

In contrast, the 70 dBu contour from a hypothetical Class B1 operation (25 kW ERP at 100 meters HAAT) at the proposed North Fork allotment coordinates (NL 37° 14' 39" x WL 119° 33' 58") would encompass just 10% of the Fresno Urbanized Area. Therefore, no "Tuck" analysis is required for San Joaquin to claim that its proposal will provide first local service to North Fork.

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Area and Population Served

The 60 dBu contour from a hypothetical Class A operation (6 kW ERP at 100 meters HAAT) at the proposed Easton allotment coordinates would encompass an area of 2,537 km² and a population of 549,351 persons (1990 Census).

The 60 dBu contour from a hypothetical Class B1 operation (25 kW ERP at 100 meters HAAT) at the proposed North Fork allotment coordinates would encompass an area of 7,998 km² and a population of 620,052 persons (1990 Census).

Conclusion

San Joaquin's proposal for Channel 300B1 at North Fork is superior to Mountain West's proposal for Channel 300A at Easton, both in provision of first local service, and in area and population served. Therefore, San Joaquin's proposal deserves preference over Mountain West's proposal.

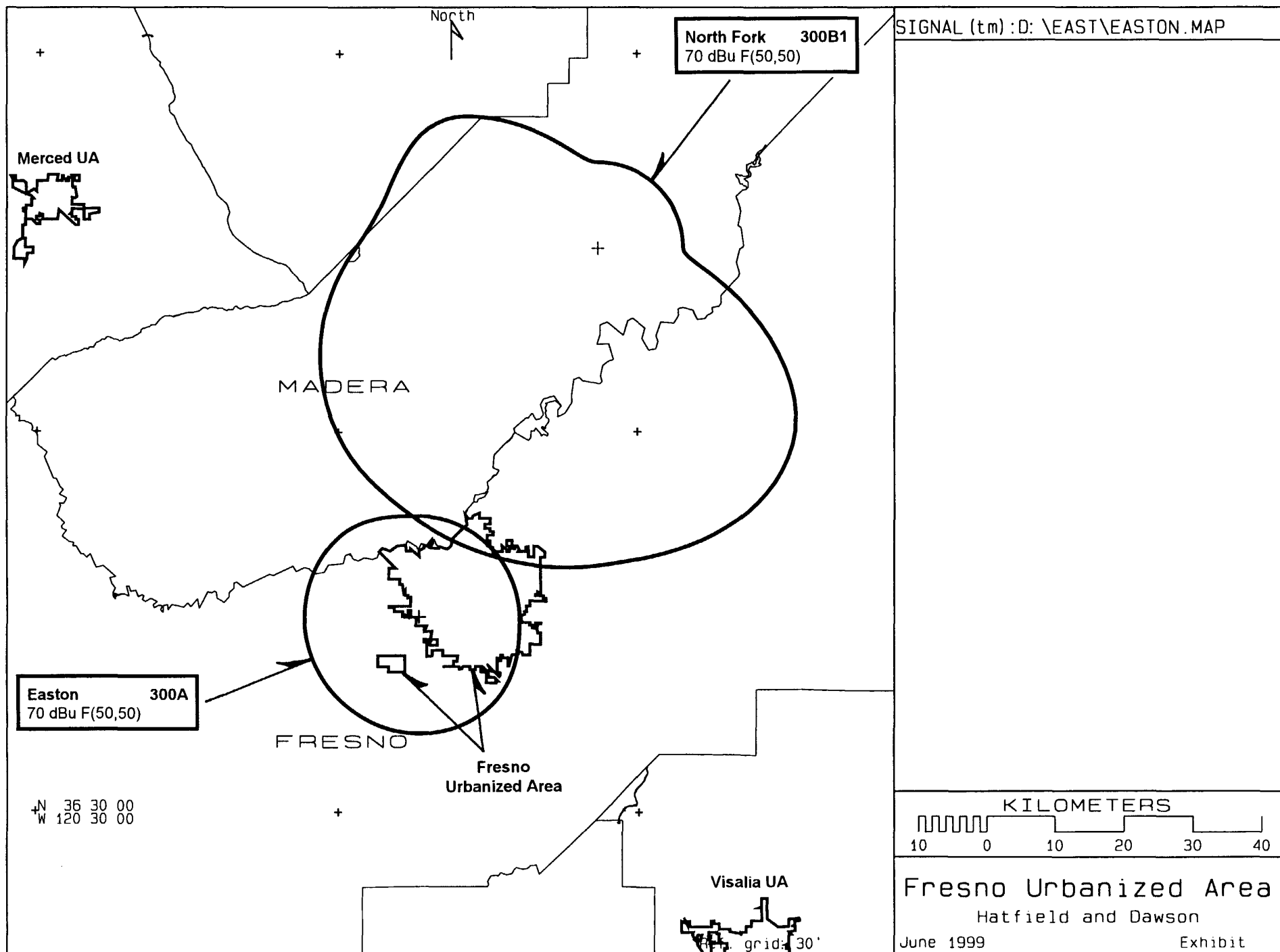
I, Benjamin F. Dawson III, hereby declare that the facts set out in the foregoing Engineering Statement, except those of which official notice may be taken, are true and correct.

Signed this 10th day of June, 1999.



Benj. F. Dawson III, P.E.

Hatfield & Dawson Consulting Engineers



DECLARATION OF EDWARD G. HOYT, JR.

Edward G. Hoyt, Jr. states under penalty of perjury as follows:

1. I am the Managing Member of San Joaquin Radio Company, LLC.

2. The factual information concerning the communities of Easton and North Fork, California, which is set out in the foregoing Comments and Counterproposal was personally gathered by me from a variety of sources including the governments of the counties in which the communities are located, the local chambers of commerce, the local telephone companies, and maps, and such information is true and correct to the best of my knowledge and belief.



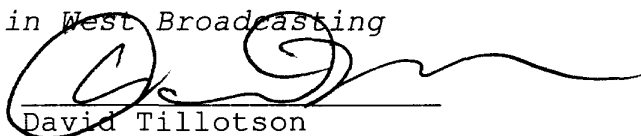
Edward G. Hoyt, Jr.

Date: 6/29/99

CERTIFICATE OF SERVICE

I, David Tillotson, do hereby certify that a copy of the foregoing COMMENTS AND COUNTERPROPOSAL has been sent via first class United States mail, postage pre-paid, this 6th day of July, 1999, to:

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David Tillotson